

**Senate Study Bill 3198 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
NATURAL RESOURCES BILL BY  
CHAIRPERSON DEARDEN)

**A BILL FOR**

1 An Act creating a natural resources and outdoor recreation  
2 trust fund to implement a proposed amendment to the  
3 Constitution of the State of Iowa, and providing for  
4 contingent implementation.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUBCHAPTER I

GENERAL PROVISIONS

Section 1. NEW SECTION. 461.1 Title.

This Act shall be known and may be cited as the natural resources and outdoor recreation Act.

Sec. 2. NEW SECTION. 461.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Department*" means the department of agriculture and land stewardship, the department of natural resources, or the department of transportation.

2. "*Fiscal year*" means the state fiscal year effective as provided in section 3.12.

3. "*Initiative*" includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in section 461.3.

4. "*Recreational purpose*" includes hunting, trapping, angling, horseback riding, swimming, boating, camping, picnicking, hiking, bird watching, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

5. "*Trust fund*" means the natural resources and outdoor recreation trust fund created in section 461.3.

6. "*Trust fund moneys*" means moneys originating from the natural resources and outdoor recreation trust fund.

Sec. 3. NEW SECTION. 461.3 Constitutional purpose and implementation.

1. This chapter is created for the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state.

2. This chapter is intended to implement Article VII, section 10 of the Constitution of the State of Iowa by establishing the natural resources and outdoor recreation

1 trust fund, accounts in the trust fund, and appropriating or  
2 allocating trust fund moneys to support initiatives specified  
3 in subchapter IV.

4 SUBCHAPTER II  
5 PARTICIPATION

6 Sec. 4. NEW SECTION. 461.11 Departmental consultation.

7 1. When making decisions regarding the expenditure of  
8 trust fund moneys affecting soil and water conservation, the  
9 secretary of agriculture shall regularly consult with the  
10 soil conservation committee established in section 161A.4.  
11 When making decisions regarding the expenditure of trust fund  
12 moneys affecting natural resources and outdoor recreation the  
13 director of the department of natural resources shall regularly  
14 consult with the natural resource commission established  
15 pursuant to section 455A.5. When making decisions regarding  
16 the expenditure of trust fund moneys affecting trails, the  
17 department of transportation shall consult with the state  
18 transportation commission as provided in chapter 307A.

19 2. The heads of each department receiving trust fund moneys  
20 shall regularly meet and whenever practicable collaborate in  
21 decision-making including by adopting rules, establishing  
22 funding priorities, and determining when it is beneficial to  
23 provide joint funding of initiatives.

24 SUBCHAPTER III  
25 ADMINISTRATION

26 Sec. 5. NEW SECTION. 461.21 Audit.

27 1. The treasurer of state shall certify monthly that trust  
28 fund moneys are allocated to the various funds and accounts as  
29 provided in subchapter IV.

30 2. The auditor of state or a certified public accounting  
31 firm appointed by the auditor of state shall conduct an annual  
32 audit of the trust fund and all accounts and transactions of  
33 the trust fund and accounts.

34 3. The auditor of state or the certified public accounting  
35 firm appointed by the auditor as provided in subsection 2 shall

1 be paid from trust fund moneys without reducing the percentage  
2 of trust fund moneys distributed to any one account established  
3 pursuant to this chapter.

4 Sec. 6. NEW SECTION. 461.22 Report.

5 The three departments together with the treasurer of state  
6 and the auditor of state shall jointly prepare and submit to  
7 the governor and the general assembly not later than January  
8 15 of each year a complete report in an electronic format  
9 detailing all of the following:

10 1. A description of public hearings and meetings required  
11 to be conducted pursuant to subchapter II, any results that  
12 impacted upon departmental decision-making, and a plan for  
13 conducting public hearings and meetings in the following year.

14 2. The receipts and expenditures of the trust fund and its  
15 accounts, a summary of initiatives supported by trust fund  
16 moneys, the results of those expenditures, any performance  
17 goals or measurements, and plans for future short-term or  
18 long-term expenditures.

19 3. Recommendations to the general assembly, including  
20 legislation proposed by one or more of the departments.

21 Sec. 7. NEW SECTION. 461.23 Rules.

22 The treasurer of state, the auditor of state, the  
23 department of revenue, and the department of agriculture and  
24 land stewardship, the department of natural resources, and  
25 department of transportation shall adopt rules separately or  
26 jointly as necessary in order to implement and administer this  
27 chapter.

28 SUBCHAPTER IV

29 NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND  
30 AND DISTRIBUTIONS TO SUPPORT DEDICATED PURPOSES

31 Sec. 8. NEW SECTION. 461.31 Natural resources and outdoor  
32 recreation trust fund — creation.

33 A natural resources and outdoor recreation trust fund is  
34 created within the state treasury.

35 1. The trust fund shall be composed of moneys required to

1 be credited to the trust fund by law and moneys accepted by  
2 a department for placement in an account established in this  
3 subchapter and from any source.

4 2. Trust fund moneys are exclusively appropriated by law  
5 to carry out the constitutional purposes provided in section  
6 461.3.

7 3. Trust fund moneys shall supplement and not replace  
8 moneys appropriated by the general assembly to support the  
9 constitutional purposes provided in section 461.3.

10 4. Trust fund moneys shall only be used to support voluntary  
11 initiatives and shall not be used for regulatory efforts,  
12 enforcement actions, or litigation.

13 5. In administering a trust fund account, a department  
14 may contract, sue and be sued, and authorize payment for  
15 costs, fees, commissions, and other reasonable expenses from  
16 the account. However, a department shall not in any manner  
17 directly or indirectly pledge the credit of this state.

18 6. Notwithstanding section 8.33, any unexpended balance in  
19 the trust fund or in an account created within the trust fund  
20 at the end of each fiscal year shall be retained in the trust  
21 fund or the respective account. Notwithstanding section 12C.7,  
22 subsection 2, interest or earnings on investments or time  
23 deposits of the moneys in the trust fund and its respective  
24 accounts shall be credited to the trust fund and its respective  
25 accounts. The recapture of awards originating from an account  
26 and other repayments to an account shall be retained in that  
27 account.

28 **Sec. 9. NEW SECTION. 461.32 Outdoor recreation account**  
29 **— allocations.**

30 An outdoor recreation account is created in the trust fund.  
31 Twenty-three percent of the moneys credited to the trust fund  
32 shall be allocated to the account.

33 1. The account shall be used by the department of natural  
34 resources to support all of the following initiatives:

35 a. The maintenance and improvement of state parks, state

1 preserves, wildlife areas, wildlife habitats, native prairies,  
2 and wetlands.

3 *b.* Wildlife diversity.

4 *c.* Recreational purposes.

5 *d.* Technical assistance and financial incentives to private  
6 landowners to promote the management of forests, fisheries,  
7 wetlands, and wildlife.

8 *e.* The improvement of water trails, rivers, and streams.

9 *f.* Education and outreach that provide instruction regarding  
10 natural history and the outdoors. The subjects of such  
11 instruction may relate to opportunities involving recreational  
12 purposes, outdoor safety, and ethics.

13 *g.* State conservation law enforcement.

14 2. The department of natural resources shall to every extent  
15 possible consider its comprehensive plan provided in section  
16 456A.31 when making funding decisions.

17 3. The department of natural resources may allocate trust  
18 fund moneys to the state fish and game protection fund, the  
19 state conservation fund, or the county conservation board fund,  
20 all as created in section 456A.17, or the forestry management  
21 and enhancement fund created in section 456A.21.

22 **Sec. 10. NEW SECTION. 461.33 Soil conservation and water**  
23 **protection account — allocations.**

24 A soil conservation and water protection account is created  
25 in the trust fund. Twenty percent of the moneys credited to  
26 the trust fund shall be allocated to the account.

27 1. The account shall be used by the department of  
28 agriculture and land stewardship to support all of the  
29 following initiatives:

30 *a.* Soil conservation and watershed protection, including  
31 by supporting the soil conservation division of the department  
32 of agriculture and land stewardship and soil and water  
33 conservation district commissioners. The department may  
34 provide for the installation of conservation practices and  
35 watershed protection improvements as provided in chapters 161A,

1 161C, 461A, 466, and 466A.

2     *b.* The conservation of highly erodible land. The department  
3 of agriculture and land stewardship may execute contracts with  
4 private landowners who agree to reserve such land only for uses  
5 that prevent erosion in excess of the applicable soil loss  
6 limits as established in section 161A.44.

7     *c.* Soil conservation or crop management practices used  
8 on land producing biomass as a feedstock for biorefineries,  
9 including cellulosic ethanol production.

10     2. The department of agriculture and land stewardship may  
11 use the account to provide financial incentives or technical  
12 assistance to landowners.

13     3. The department of agriculture and land stewardship  
14 may allocate trust fund moneys to the conservation practices  
15 revolving loan fund established in section 161A.71, the  
16 blufflands protection program and revolving fund created in  
17 section 161A.80, the Loess hills development and conservation  
18 fund created in section 161D.2, the southern Iowa development  
19 and conservation fund created in section 161D.12, and the  
20 agricultural drainage well water quality assistance fund  
21 created in section 460.303.

22     Sec. 11. NEW SECTION. **461.34 Watershed protection account**  
23 **— allocations.**

24     A watershed protection account is created in the trust fund.  
25 Fourteen percent of the moneys credited to the trust fund shall  
26 be allocated to the account.

27     1. The account shall be used cooperatively by the department  
28 of natural resources and the department of agriculture and land  
29 stewardship to support all of the following initiatives:

30     *a.* Water resource projects administered by the department  
31 of natural resources to preserve watersheds, including but not  
32 limited to all of the following:

33         (1) Projects to protect, restore, or enhance water quality  
34 in the state through the provision of financial assistance to  
35 communities for impairment-based, locally directed watershed

1 projects. The department may use the account to support the  
2 water resource restoration sponsor program as provided in  
3 section 455B.199.

4 (2) Regional and community watershed assessment, planning,  
5 and prioritization efforts, including as provided in chapter  
6 466B.

7 b. Surface water protection projects and practices  
8 administered by the department of agriculture and land  
9 stewardship or the department of natural resources, including  
10 but not limited to the installation of permanent vegetation  
11 cover, filter strips, grass waterways, and riparian forest  
12 buffers; dredging; and bank stabilization. The departments  
13 of agriculture and land stewardship and natural resources  
14 may use the account to support the conservation buffer strip  
15 program provided in section 466.4 and the conservation reserve  
16 enhancement program as provided in section 466.5.

17 2. The departments' decision to prioritize initiatives may  
18 be based on the priority list of watersheds provided in section  
19 456A.33A.

20 3. The department of agriculture and land stewardship may  
21 allocate trust fund moneys to the water protection fund created  
22 in section 161C.4, the organic nutrient management fund created  
23 pursuant to section 161C.5, or the watershed improvement fund  
24 created in section 466A.2.

25 Sec. 12. NEW SECTION. 461.35 Iowa resources enhancement and  
26 protection fund — allocation.

27 Thirteen percent of the moneys credited to the trust  
28 fund shall be allocated to the Iowa resources enhancement  
29 and protection fund created in section 455A.18 for further  
30 allocation as provided in section 455A.19.

31 Sec. 13. NEW SECTION. 461.36 Local conservation partnership  
32 account — allocations.

33 A local conservation partnership account is created in the  
34 trust fund. Thirteen percent of the moneys credited to the  
35 trust fund shall be allocated to the account.

1 1. The department of natural resources shall allocate  
2 trust fund moneys in the account to local communities for the  
3 following initiatives:

4 a. The maintenance and improvement of parks, preserves,  
5 wildlife areas, wildlife habitats, native prairies, and  
6 wetlands.

7 b. Wildlife diversity.

8 c. Recreational purposes.

9 d. The improvement of water trails, rivers, and streams.

10 e. Education and outreach programs and projects that provide  
11 instruction regarding natural history and the outdoors. The  
12 subjects of such instruction may relate to opportunities  
13 involving recreational purposes, outdoor safety, and ethics.

14 f. Any other purpose described in section 350.1.

15 2. A local community may cooperate with the state or the  
16 federal government to carry out the initiative. Two or more  
17 local communities may form an entity if allowed under chapter  
18 28E in order to carry out the initiative.

19 3. As used in this section, "*local community*" means a county  
20 conservation board, a city, or a nongovernmental organization  
21 operating on a nonprofit basis.

22 Sec. 14. NEW SECTION. **461.37 Trails account — allocations.**

23 A trails account is created in the trust fund. Ten percent  
24 of the moneys credited to the trust fund shall be allocated to  
25 the account.

26 1. The department of transportation and the department  
27 of natural resources shall allocate moneys in the account to  
28 support initiatives related to the design, establishment,  
29 maintenance, improvement, and expansion of land trails.

30 a. The land trails may be for equestrian use, bicycles,  
31 walking, hiking, nature study, or cross-country skiing.

32 b. The departments may provide for trails on land in which  
33 the department of transportation or the department of natural  
34 resources has acquired rights as scenic easements as defined  
35 in section 308.3.

1 2. The department of transportation may use the account  
2 to support integrated roadside vegetation management planning  
3 and projects as provided in section 314.22. The department of  
4 transportation may deposit a portion of the trust fund moneys  
5 in the living roadway trust fund as provided in section 314.21.

6 3. The department of natural resources may use the account  
7 to support the design, establishment, maintenance, improvement,  
8 and expansion of water trails. The department of natural  
9 resources may use the account to implement the water trails  
10 and low head dam public hazard statewide plan as provided in  
11 section 464A.11.

12 Sec. 15. NEW SECTION. 461.38 Lake restoration account —  
13 allocations.

14 A lake restoration account is created in the trust fund.  
15 Seven percent of the moneys credited to the trust fund shall  
16 be deposited to the account. The department of natural  
17 resources shall use moneys in the account to support public  
18 lake restoration initiatives as follows:

19 1. An initiative shall account for a lake's recreational,  
20 environmental, aesthetic, ecological, and social value. It  
21 must improve water quality.

22 2. The department's decision to prioritize an initiative  
23 may be based on the department's lake restoration plan and  
24 report as provided in section 456A.33B.

25 Sec. 16. CONTINGENT IMPLEMENTATION. This Act shall be  
26 implemented on January 1, 2011, if the joint resolution  
27 proposing an amendment to the Constitution of the State of Iowa  
28 to dedicate a portion of state revenue from the tax imposed on  
29 certain retail sales of tangible personal property and services  
30 for the benefit of the state's natural resources, as passed for  
31 the second time by the general assembly as provided in 2009  
32 Iowa Acts, chapter 185, and submitted to the people of the  
33 State of Iowa at the general election in November 2010, in the  
34 manner required by the Constitution of the State of Iowa and  
35 the laws of this state, is ratified.

EXPLANATION

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BACKGROUND. In 2008, the 82nd General Assembly passed Senate Joint Resolution 2002 and in 2009 the 83rd General Assembly passed House Joint Resolution 1 proposing an amendment to the Constitution of the State of Iowa to dedicate a portion of state revenue from the tax imposed on certain retail sales of tangible personal property and services for the benefit of the state's natural resources. The resolution creates a natural resources and outdoor recreation trust fund within the state treasury and not within the general fund of the state. Moneys in the fund cannot be used for any purpose other than protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state. No revenue is credited to the fund until the sales and use tax rate is increased. Whenever the sales tax is increased, the amount generated by the increase is credited to the fund. If approved by a majority of Iowa voters, the constitution of the state is amended effective as of the date of the general election.

GENERAL. The bill creates a new Code chapter referred to as the natural resources and outdoor recreation Act. The bill provides that its purpose is to implement the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state. The fund is administered by the treasurer of state and provides for distributions to support various initiatives to be carried out by the department of natural resources, the department of agriculture and land stewardship, and the state department of transportation. An initiative includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in Code section 461.3.

PARTICIPATION. The bill requires the heads of the three

1 departments who make decisions regarding the expenditure  
2 of trust fund moneys to consult with bodies that oversee  
3 policies concerned with natural resources. The director of  
4 the department of natural resources must consult with the  
5 natural resource commission, the secretary of agriculture must  
6 consult with the state soil conservation committee, and the  
7 director of the department of transportation must consult with  
8 the state transportation commission. The heads of the three  
9 departments must regularly meet together and collaborate when  
10 making decisions.

11 ADMINISTRATION. The bill requires annual audits by the  
12 auditor of state or a private accounting firm. Finally, the  
13 three departments together with the treasurer of state and  
14 auditor of state must submit an annual report to the governor  
15 detailing the management of the trust fund, decision-making,  
16 and the results of expenditures from the trust fund. The bill  
17 requires those agencies to adopt rules necessary to carry out  
18 their responsibilities.

19 TRUST FUND ESTABLISHED. The bill creates the trust  
20 fund, provides that moneys may be credited to the fund as  
21 provided by law or accepted by a decision-making department  
22 for placement in an account under its control. According to  
23 the bill, trust fund moneys shall supplement and not replace  
24 moneys appropriated by the general assembly to support the  
25 constitutional purposes, must be used to support voluntary  
26 initiatives, and shall not be used for regulatory efforts,  
27 enforcement actions, or litigation. Moneys in a fund or  
28 account remain in the fund or account until expended and retain  
29 all earnings.

30 TRUST FUND ALLOCATIONS — OUTDOOR RECREATION ACCOUNT. The  
31 bill creates an outdoor recreation account and provides for the  
32 allocation of trust fund moneys to the account for use by the  
33 department of natural resources to support initiatives related  
34 to state lands, wildlife, recreation, natural habitat, rivers  
35 and streams, education, and state conservation law enforcement.

1 The department is authorized to deposit trust fund moneys into  
2 a number of secondary funds, including the state fish and game  
3 protection fund, the state conservation fund, or the county  
4 conservation fund.

5 SOIL CONSERVATION AND WATER PROTECTION ACCOUNT. The bill  
6 creates a soil conservation and water protection account and  
7 provides for the allocation of trust fund moneys into the  
8 account for use by the department of agriculture and land  
9 stewardship to support initiatives related to soil conservation  
10 and watershed protection to support the department's soil  
11 conservation division and soil and water conservation  
12 district commissioners. The department may also provide for  
13 the conservation of highly erodible land and provide for  
14 soil conservation or crop management practices used on land  
15 producing biomass as a feedstock for biorefineries. The  
16 department may allocate trust fund moneys to the conservation  
17 practices revolving loan fund, the blufflands protection  
18 program and revolving fund, the Loess hills development  
19 and conservation fund, the southern Iowa development and  
20 conservation fund, and the agricultural drainage well water  
21 quality assistance fund.

22 WATERSHED PROTECTION ACCOUNT. The bill creates a watershed  
23 protection account and provides for the allocation of trust  
24 fund moneys into the account for use by the department of  
25 natural resources and the department of agriculture and land  
26 stewardship to support initiatives related to water resource  
27 initiatives, including for the protection, restoration, or  
28 enhancement of water quality in the state, and the installation  
29 of vegetation as soil or pollution barriers. The department of  
30 agriculture and land stewardship may allocate trust fund moneys  
31 in the water protection fund, the organic nutrient management  
32 fund, or the watershed improvement fund.

33 IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. The bill  
34 provides for the allocation of trust fund moneys to the Iowa  
35 resources enhancement and protection fund for allocations as

1 provided by law.

2 LOCAL CONSERVATION PARTNERSHIP ACCOUNT. The bill creates  
3 a local conservation partnership account and provides for  
4 the allocation of trust fund moneys into the account for use  
5 by the department of natural resources to support community  
6 initiatives, including for parks, preserves, wildlife areas,  
7 wildlife habitats, native prairies, and wetlands; wildlife  
8 diversity; recreation; the improvement of water trails, rivers,  
9 and streams; and education and outreach. A local community  
10 is limited to a county conservation board, a city, or a  
11 nongovernmental organization operating on a nonprofit basis; or  
12 a city or county allowed to organize under a Code chapter 28E  
13 agreement.

14 TRAILS ACCOUNT. The bill creates a trails account and  
15 provides for the allocation of trust fund moneys into the  
16 account for use by the department of transportation and  
17 the department of natural resources to support the design,  
18 establishment, maintenance, improvement, and expansion of land  
19 trails and water trails. The department of transportation  
20 may use the account to support integrated roadside vegetation  
21 management planning and projects and it may allocate a portion  
22 of the trust fund moneys to the living roadway trust fund. The  
23 department of natural resources may use the trust fund moneys  
24 to implement the water trails and low head dam public hazard  
25 statewide plan.

26 LAKE RESTORATION ACCOUNT. The bill creates a lake  
27 restoration account and provides for the allocation of trust  
28 fund moneys into the account for use by the department of  
29 natural resources to support initiatives related to lake  
30 restoration taking into account a lake's recreational,  
31 environmental, aesthetic, ecological, and social value.

32 CONTINGENT IMPLEMENTATION. The bill is to be implemented  
33 on January 1, 2011, if the joint resolution proposing the  
34 amendment to the Constitution of the State of Iowa is ratified.